



0000121379

**ORIGINAL EXCEPTION**

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED  
FEB 17 3 16 PM '99

Arizona Corporation Commission

**DOCKETED**

FEB 17 1999

DOCUMENT CONTROL

JIM IRVIN  
CHAIRMAN  
TONY WEST  
COMMISSIONER  
CARL J. KUNASEK  
COMMISSIONER

DOCKETED BY

IN THE MATTER OF THE COMPETITION  
IN THE PROVISION OF ELECTRIC  
SERVICES THROUGHOUT THE STATE OF  
ARIZONA

Docket No. RE-00000C-94-165

**SEMPRA ENERGY TRADING CORP.'S EXCEPTIONS  
TO PROPOSED REVISIONS TO THE  
ELECTRIC COMPETITION RULES**

Sempra Energy Trading Corp. submits the following exceptions to the Hearing Division's recommended order proposing revisions to the Retail Electric Competition Rules (R14-2-1601 *et seq.*):

1. **R14-2-1601(44)/R14-2-1617(A)**: The proposed additions in R14-2-1601(44) and R14-2-1617(A) will be subject *out-of-state* utility companies that are not otherwise regulated by this Commission to the Affiliate Transaction Rule if they have an affiliated Energy Service Provider ("ESP") certificated in Arizona. This requirement is unnecessary and overly burdensome and probably prohibited by the Commerce Clause of the U.S. Constitution. Such out-of-state utilities are already subject to affiliate transaction rules in their own states which their public utility commissions believe are necessary to protect ratepayers in those states. For example, Sempra Energy Trading's affiliate UDCs – San Diego Gas & Electric and Southern California Gas – are already subject to California's stringent affiliate transaction rules. Applying Arizona Affiliate Transaction Rules to out-of-state utilities will provide protection neither to Arizona ratepayers nor to out-of-state ratepayers.

1 The primary reason for implementing affiliate transaction rules is to address market power  
2 concerns. The utility's affiliates may be targeting the same customers that the incumbent monopoly  
3 utility is currently serving. The presence of the utility in the same service territory as that utility's  
4 marketing affiliate raises market power concerns because of the ownership ties and the pre-existing  
5 market dominance of the monopoly utility. San Diego Gas & Electric and Southern California Gas  
6 serve no customers in Arizona, and therefore have no market dominance in that state.

7 Further, there is no reciprocity that justifies this proposal. APS' and TEP's marketing  
8 affiliates, although vigorously operating in California, are not subject to California's stringent  
9 affiliate transaction rules. Likewise, Sempra Energy Trading and other ESPs trying to do business in  
10 Arizona should not have the extra burden of complying with Arizona Affiliate Transaction Rules.

11 **CONCLUSION**

12 The Commission should not revise R14-2-1601(44) and R14-2-1617(A) as proposed in the  
13 Recommended Order.

14  
15 February 17, 1999.

16 Respectfully submitted,

17 **SEMPRA ENERGY TRADING CORP.**

18 By 

19 Lex J. Smith  
20 Michael W. Patten  
21 BROWN & BAIN, P.A.  
22 2901 North Central Avenue  
23 Post Office Box 400  
24 Phoenix, Arizona 85001-0400

25 Attorneys for Sempra Energy Trading Corp.  
26

1 ORIGINAL and (10) COPIES filed  
2 February 17, 1999, with:

3 Docket Control  
4 Arizona Corporation Commission  
5 1200 West Washington Street  
6 Phoenix, Arizona 85007

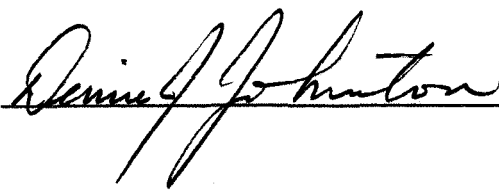
7 COPIES hand-delivered February 17, 1999, to:

8 Paul A. Bullis, Esq.  
9 Christopher C. Kempley, Esq.  
10 Janet Wagner, Esq.  
11 Janice Alward, Esq.  
12 Legal Division  
13 ARIZONA CORPORATION COMMISSION  
14 1200 West Washington Street  
15 Phoenix, Arizona 85007

16 Jerry L. Rudibaugh, Esq.  
17 Teena Wolfe, Esq.  
18 Hearing Division  
19 ARIZONA CORPORATION COMMISSION  
20 1200 West Washington Street  
21 Phoenix, Arizona 85007

22 COPIES mailed February 17, 1999, to:

23 *All parties on the service list for*  
24 *Docket No. RE-00000C-94-165*

25   
26